

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA, *et*
al.,

Plaintiffs,

v.

PETER FRANCHOT,

Defendant.

No. 1:21-cv-00410-DKC

* * * * *

AFFIDAVIT OF BRIAN OLINER

I, Brian Oliner, Assistant Attorney General for the State of Maryland and Principal Counsel to the Comptroller of Maryland, hereby certify that:

- 1) I am over eighteen years of age and competent to testify in this matter.
- 2) I am an Assistant Attorney General for the State of Maryland and Principal Counsel to the Comptroller of Maryland. I have been in this position since July 2008.
- 3) I submit this affidavit pursuant to Rule 56(d) of the Federal Rules of Civil Procedure.
- 4) I have represented the Comptroller of Maryland in numerous matters before the Maryland Tax Court involving appeals stemming from tax assessments and tax refund claims, and I am familiar with the contents of the regulations proposed by the Comptroller of Maryland pursuant to Md. Code Ann., Tax-General § 7.5-102(b)(2) and

submitted to the Maryland General Assembly Joint Committee on Administrative, Executive, and Legislative Review on August 30, 2021.

5) Assuming there are no additional requirements established in the final regulations that are promulgated pursuant to Md. Code Ann., Tax-General § 7.5-102(b)(2), the following discovery would be needed for the defendant's opposition to plaintiffs' cross-motion for summary judgment, to enable the defendant to verify the plaintiffs' factual allegations and determine whether any of the plaintiffs or their members are aggrieved by the challenged Digital Advertising Gross Revenues Tax:

- a) The name of each member of each plaintiff organization that derives any receipts from digital advertising services (hereinafter "Member");
- b) The amount of gross revenue derived from digital advertising services in calendar year 2022 by each Member [2022 is the relevant year as the Digital Advertising Gross Revenues Tax is effective for years beginning after December 31, 2021];
- c) All marketing material for digital advertising services developed by each Member offering digital advertising services;
- d) All contracts for digital advertising services to which a Member is a party;
- e) All billing information for digital advertising services between the Member providing such services and its customers including, but not limited to, invoices and tracking information;

f) All information in the possession or control of a Member that identifies the location of devices receiving digital advertising services including, but not limited to:

- i) Internet protocol;
- ii) Geolocation data;
- iii) Device registration;
- iv) Cookies; or
- v) Comparable information.

I DECLARE UNDER PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING PAPER ARE TRUE.

Signature and Title: Brian L. Oliner * Assistant Attorney General

Dated: September 10, 2021

*Counsel hereby certifies that he or she has a signed copy of the foregoing document available for inspection by the court or a party to this action.